

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FEDERAL TRADE COMMISSION : CIVIL ACTION
: :
v. : :
: :
ABBVIE INC., et al. : NO. 14-5151

ORDER

AND NOW, this 11th day of August, 2016, it is hereby
ORDERED that:

(1) the motion of the Federal Trade Commission ("FTC")
to compel defendants AbbVie Inc., Abbott Laboratories, and Unimed
Pharmaceuticals LLC to produce board of directors documents
discussing the marketing or sale of AndroGel (Doc. # 187) is
GRANTED; and

(2) the defendants shall produce, on or before
August 22, 2016, any board of director documents discussing the
marketing or sale of AndroGel with an accompanying privilege log.
No extensions of time will be granted.

The FTC has moved to compel defendants AbbVie Inc.,
Abbott Laboratories, and Unimed Pharmaceuticals LLC to produce
all non-privileged documents presented to their boards of directors
discussing the marketing or sale of AndroGel. Specifically, its
August 2015 request for production sought "[a]ll documents
presented to the AbbVie Defendants' . . . boards of directors

discussing the marketing or sale of AndroGel." This request for production is relevant and proportional to the needs of this monopolization case, in which the FTC alleges that the defendants filed sham patent infringement lawsuits against potential generic competitors to preclude their entry into the market. See Fed. R. Civ. P. 26(b)(1).

The request for production seeks only documents presented to the defendants' boards of directors. The defendants may redact irrelevant material, that is portions of those documents which do not relate to "the marketing or sale of AndroGel." The marketing or sale of a product, of course, includes the acquisition of that product, whereby the defendants analyzed sales and marketing opportunities for the product. Likewise, the marketing or sale of a product consists of pricing strategies for that product and discussions of competing products, including strategies for dealing with competitive generic entry. To the extent that any minutes of the meetings of the boards of directors relate to the marketing or sale of AndroGel, those minutes must be produced.

BY THE COURT:

/s/ Harvey Bartle III

J.